

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

Case No. 17-BK-3283-LTS

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO HIGHWAYS AND
TRANSPORTATION AUTHORITY,

Debtors.

PROMESA

Title III

Case No. 17 BK 3567-LTS

¹The Debtors in these Title III cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's Federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico ("Commonwealth") (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 04780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

AMERINATIONAL COMMUNITY SERVICES,
LLC, as Servicer for the GDB Debt Recovery
Authority, and CANTOR-KATZ COLLATERAL
MONITOR LLC,

Plaintiffs,

v.

AMBAC ASSURANCE CORPORATION, ASSURED
GUARANTY CORP., ASSURED GUARANTY
MUNICIPAL CORP., FINANCIAL GUARANTY
INSURANCE COMPANY, NATIONAL PUBLIC
FINANCE GUARANTEE CORPORATION, PEAJE
INVESTMENTS LLC, and THE BANK OF NEW
YORK MELLON, as Fiscal Agent,

Defendants.

Adv. Pro. No. 21-00068-LTS

DEFENDANTS' NOTICE OF MOTION TO DISMISS THE COMPLAINT

PLEASE TAKE NOTICE that, upon the accompanying *Defendants' Motion to Dismiss the Complaint* (the “**Motion to Dismiss**”), and the accompanying Declaration of William J. Natbony, dated August 26, 2021, with exhibits, Defendants Assured Guaranty Corp., Assured Guaranty Municipal Corp. (f/k/a Financial Security Assurance Inc.), Ambac Assurance Corporation, The Bank of New York Mellon, as Fiscal Agent, National Public Finance Guarantee Corp., Financial Guaranty Insurance Company, and Peaje Investments LLC (collectively, “**Defendants**”) will move this Court, before the Honorable Laura Taylor Swain, United States District Judge, United States District Court for the District of Puerto Rico, 150 Carlos Chardón Street, Federal Building, San Juan, Puerto Rico, for an order pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) dismissing the Adversary Complaint (the “**Complaint**”) of Plaintiffs AmeriNational Community Services LLC and Cantor-Katz Collateral Monitor

(“**Plaintiffs**” and, with Defendants, the “**Parties**”), with prejudice, and for such other and further relief as this Court may deem just and proper.²A proposed order granting the Motion to Dismiss is attached and marked as **Exhibit A** hereto.

PLEASE TAKE FURTHER NOTICE that in accordance with the requirements of the *Second Amended Standing Order*, Case No. 17-03283-LTS, ECF No. 15895-1 (the “**Standing Order**”), Defendants certify that they have conferred with Plaintiffs and made their best efforts to resolve informally the matters raised in the Motion to Dismiss, including with an exchange of letters and a telephonic meet-and-confer. Despite the Parties’ best efforts to resolve informally the issues raised by Defendants’ Motion to Dismiss, the Parties have not resolved the matters in controversy, necessitating the filing of Defendants’ Motion to Dismiss. Plaintiffs have not amended the Complaint.

PLEASE TAKE FURTHER NOTICE that any objection to the Motion to Dismiss (“**Objection**”) shall be served on the Defendants through their undersigned counsel by September 23, 2021. The relief requested may be granted without hearing if no Objection is timely filed and served in accordance with the Fifteenth Amended Case Management Procedures [ECF No. 17127-1, Case No. 17-03283-LTS]; and

PLEASE TAKE FURTHER NOTICE that copies of the Motion to Dismiss and all documents filed in this Title III case are available (a) free of charge by visiting <https://cases.primeclerk.com/puertorico> or by calling +1 (844) 822-9231, and (b) on the Court’s website at <http://www.prd.uscourts.gov>, subject to the procedures and fees set forth therein.

² Pursuant to the Court’s *Order on Joint Status Report Pursuant to Court Order Dated July 16, 2021*, [ECF No. 17387] with Respect to (I) DRA Parties Administrative Expense Claim Motion and (II) DRA Adversary Proceeding, Adv. Proc. No. 21-ap-00068-LTS [ECF No. 25], the Court will consider the Motion to Dismiss on submission unless the Court determines that a hearing is necessary.

Dated: August 26, 2021
New York, New York

Respectfully submitted,

**CASELLAS ALCOVER & BURGOS
P.S.C.**

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CERTIFICATE OF SERVICE

I hereby certify that I filed this document electronically with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to all parties of record in the captioned case.

At New York, New York, on the 26th day of August, 2021.

By: /s/ Howard R. Hawkins, Jr.
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